and the applicable implementing regulation found in subpart A of this part 362 before the date on which any such activity became for the first time permissible for a financial subsidiary of a national bank; and

(ii) Which insured state nonmember bank and its subsidiary continue to meet the conditions and restrictions of the section 24 order or regulation approving the activity as well as other applicable law.

(2) *Continuing authority under section 24(f) of the Federal Deposit Insurance Act.* Notwithstanding §362.18(a) through (f), an insured state bank with authority under section 24(f) of the Federal Deposit Insurance Act (12 U.S.C. 1831a(f)) to hold equity securities may continue to establish new subsidiaries to engage in that investment activity.

(3) *Relief from conditions.* Any state nonmember bank that meets the requirements of paragraph (g)(1) of this section or that is subject to section 46(b) of the Federal Deposit Insurance Act (12 U.S.C. 1831w(b)) may submit an application in compliance with §303.121 of this chapter and seek the consent of the FDIC under the procedure in §303.122(b) of this chapter for modification of any conditions or restrictions the FDIC previously imposed in connection with a section 24 order or regulation approving the activity.

(4) *New financial subsidiaries.* Notwithstanding subpart A of this part 362, an insured state bank may not, on or after November 12, 1999, acquire control of, or acquire an interest in, a financial subsidiary that engages in activities as principal or commences any new activity under section 46(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831w) other than as provided in this section.

[63 FR 66326, Dec. 1, 1998, as amended at 78 FR 55596, Sept. 10, 2013]

PART 363—ANNUAL INDEPENDENT AUDITS AND REPORTING REQUIREMENTS

AUTHORITY: 12 U.S.C. 1831m.

SOURCE: 74 FR 35745, July 20, 2009, unless otherwise noted.

§363.0 OMB control number.

The information collection requirements in this part have been approved by the Office of Management and Budget under OMB control number 3064–0113.

§363.1 Scope and definitions.

(a) *Applicability.* This part applies to any insured depository institution with respect to any fiscal year in which its consolidated total assets as of the beginning of such fiscal year are $500 million or more. The requirements specified in this part are in addition to any other statutory and regulatory requirements otherwise applicable to an insured depository institution.

(b) *Compliance by subsidiaries of holding companies.* (1) For an insured depository institution that is a subsidiary of a holding company, the audited financial statements requirement of §363.2(a) may be satisfied:

(i) For fiscal years ending on or before June 14, 2010, by audited consolidated financial statements of the top-tier or any mid-tier holding company.

(ii) For fiscal years ending on or after June 15, 2010, by audited consolidated financial statements of the top-tier or any mid-tier holding company provided that the consolidated total assets of the insured depository institution (or the consolidated total assets of all of the holding company's insured depository institution subsidiaries, regardless of size, if the holding company owns or controls more than one insured depository institution) comprise 75 percent or more of the consolidated total assets of this top-tier or mid-tier holding company as of the beginning of its fiscal year.

(2) The other requirements of this part for an insured depository institution that is a subsidiary of a holding company may be satisfied by the top-tier or any mid-tier holding company if the insured depository institution meets the criterion specified in §363.1(b)(1) and if: